

Issue: Administrative Review of Hearing Officer's Decision in Case No.10045; Ruling  
Date: June 25, 2013; Ruling No. 2013-3644; Agency: County of Powhatan;  
Outcome: No Jurisdiction.



**COMMONWEALTH of VIRGINIA**  
**Department of Human Resources Management**  
**Office of Employment Dispute Resolution**

**ADMINISTRATIVE REVIEW**

In the matter of Powhatan County  
Ruling Number 2013-3644  
June 25, 2013

The grievant has requested that the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management administratively review the hearing officer's decision in Case Number 10045. For the reasons set forth below, EDR has no basis to disturb the hearing officer's decision.

FACTS

The grievant was employed by Powhatan County, a locality operating by default under the state grievance procedure outlined in Va. Code § 2.2-3000 *et seq.*<sup>1</sup> Accordingly, EDR appointed a hearing officer to conduct the grievance hearing as required by Va. Code § 2.2-3005. A hearing was held on April 18, 2013, and the relevant facts as set forth in this case are as follows:<sup>2</sup>

The County of Powhatan employed Grievant as a CSA Coordinator/RMDI Coordinator. Her duties included overseeing the administration, finance, and budgeting of the Powhatan County CSA Program, specifically, performing budgeting work, fiscal reporting, and cost effectiveness functions narrative reports, utilization tool trainings and management, planning documents, and requests for funding.

Grievant was employed by the County for over ten years prior to her removal effective December 17, 2012.

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The Interim Finance Director joined the County in December 2012. She conducted a comprehensive review of the cases for Fiscal Year 2011-2012. She identified problems as follows:

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<sup>1</sup> See Va. Code § 15.2-1507(A).

<sup>2</sup> Decision of Hearing Officer, Case No. 10045 ("Hearing Decision"), June 14, 2013 at 2-5 (some references to exhibits from the Hearing Decision have been omitted here).

- 19 examples of payments made to vendors in excess of the amounts authorized by the CPMT [Community Policy and Management Team].
- 21 examples of when the purchase order issued was for an amount in excess of the amounts approved by the CPMT.
- One example of decisions being made and approved outside the formal FAPT [Family Assessment and Planning Team] team meeting, minutes or notes lacking, and parents not being notified in advance of discussion.
- One example of multiple children and/or vendors using the same purchase order number.
- Seven examples of the vendor not signing the purchase order.

The Director of Social Services replaced Grievant as the CSA Coordinator for the CSA program in November 2012. She developed a spreadsheet with information about the 38 children in the CSA program at that time. She looked for documents supporting expenditures but found many variances. She determined that 46 of the 59 purchase orders had discrepancies. She calculated an error rate of approximately 77 percent of the purchase orders.

County managers were especially concerned about expenditures in excess of the amount authorized by the CPMT because the County would be subject to having to repay a significant portion of those monies to the Commonwealth. The County notified the State's Office of Comprehensive Services that it was conducting an audit of its CSA program. County managers were not aware whether the County would have to re-pay funds provided to it until such time as the Officer of Comprehensive Services elects to conduct an audit.

In a June 14, 2013 hearing decision, the hearing officer upheld the agency's issuance to the grievant of disciplinary action with removal.<sup>3</sup> The grievant now seeks administrative review from EDR. Localities operating under the state grievance procedure present a unique procedural situation and no specific authority is granted to EDR to render administrative reviews in such cases. However, in her request for review, the grievant raises issues meriting a response by this Office.<sup>4</sup>

### DISCUSSION

By statute, EDR has been given the power to establish the grievance procedure, promulgate rules for conducting grievance hearings, and "[r]ender final decisions ... on all matters related to procedural compliance with the grievance procedure."<sup>5</sup> If the hearing officer's

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<sup>3</sup> *Id.* at 8.

<sup>4</sup> Nothing in this ruling shall be construed to limit the grievant's ability to raise issues on appeal to a Circuit Court having jurisdiction over this matter, should such an appeal right exist.

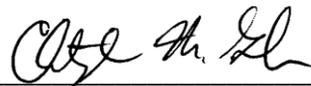
<sup>5</sup> Va. Code §§ 2.2-1202.1(2), (3), (5).

exercise of authority is not in compliance with the grievance procedure, EDR does not award a decision in favor of a party; the sole remedy is that the action be correctly taken.<sup>6</sup>

In this case, the grievant alleges that her due process rights have been violated. She argues that the attorney representing the County at the hearing was a former Director of EDR as well as a friend of the person hired by the County to succeed the grievant and thus, she believes she was denied due process as a result of influence exerted by the attorney. She also alleges that, once the County retained this attorney, the fees charged pursuant to a document request initiated by the grievant increased. Even taking these allegations as true, we find nothing that would constitute a due process violation as a matter of the grievance procedure.

To the extent that the grievant argues that the attorney for the County influenced the County's actions, her very role as counsel may require such authority in that instance and we find no violation of the grievant's right to due process as a matter of the grievance procedure. With respect to the grievant's assertions that the attorney for the County influenced the actions of this Office or its hearing officer, such allegations are absolutely false. None of EDR's present staff, including the hearing officer, previously worked at EDR under this individual. The hearing officer in this matter rendered an independent decision based upon the evidence with which he was presented at the hearing. Accordingly, EDR declines to disturb the hearing decision in this instance.

Pursuant to Section 7.2(d) of the *Grievance Procedure Manual*, a hearing officer's original decision becomes a final hearing decision once all timely requests for administrative review have been decided.<sup>7</sup> The parties are free to file an appeal with the Circuit Court. This ruling expresses no opinion as to whether the Court has jurisdiction to hear such an appeal.



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Christopher M. Grab  
Director  
Office of Employment Dispute Resolution

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<sup>6</sup> See *Grievance Procedure Manual* § 6.4(3).

<sup>7</sup> *Grievance Procedure Manual* § 7.2(d).